

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

GINA CARPENTER,

Plaintiff,

v.

9:15-CV-1269
(GTS/CFH)

CRAIG APPLE, et al,

Defendants.

APPEARANCES:

OF COUNSEL:

Office of Trevor W. Hannigan
311 State Street
Albany, New York 12210
Attorneys for plaintiff

TREVOR W. HANNIGAN, ESQ.

Meth Law Offices, PC
10 Moffat Lane, Ste. 2
Chester, New York 10918
Attorneys for plaintiff

MICHAEL D. METH, ESQ.

Adam G. Giangreco, Attorney-at-Law
4217 Court Royale, No. 10
Schenectady, New York 12304
Attorney for Defendant Apple

ADAM G. GIANGRECO, ESQ.

Goldberg Segalla Law Firm - Albany Office
8 Southwoods Blvd., Ste. 300
Albany, New York 12211-2526
Attorneys for Defendant Apple

JONATHAN M. BERNSTEIN, ESQ.
CHELSEA E. KEENAN, ESQ.

Albany County Attorney's Office
112 State Street, Ste. 1010
Albany, New York 12207
Attorneys for Defendant Apple,
Albany County Sheriff's Office,
County of Albany, Albany County
Correctional Facility, Augustus
Roberson, III, Jane Doe, John Doe

SIA Z. GOOGAS, ESQ.
MICHAEL L. GOLDSTEIN, ESQ.

Marcelle Law
61 Devonshire Drive
Slingerlands, New York 12159
Attorney for Defendant Apple

THOMAS MARCELLE, ESQ.

Towne, Ryan Law Firm - Albany Office
450 New Karner Road
P.O. Box 15072
Albany, New York 12205
Attorneys for Albany County Sheriff's Office,
Albany County, Albany County Correctional
Facility, Augustus Roberson III

JOHN W. LIGOURI, ESQ.

Burke, Scolamiero, Mortati & Hurd, LLP
7 Washington Square
P.O. Box 12205
Albany, New York 12205
Attorneys for County of Albany,
Albany County Correctional Facility

ELIJAH J. SUMMERSELL, ESQ.
JEFFERY E. HURD, ESQ.
JUDITH B. AUMAND, ESQ.

ORDER

On September 14, 2017, defendant Craig Apple filed a Notice of Interlocutory Appeal to the United States Court of Appeals for the Second Circuit. Dkt. No. 74. On September 18, 2017, defendant Sheriff Craig Apple filed a Motion to Stay discovery and dispositive motion deadlines with respect to defendant Apple during the pendency of his interlocutory appeal. Dkt. No. 75. On September 20, 2017, plaintiff filed a letter motion seeking denial of defendant Apple's Motion to Stay. Dkt. No. 81. On September 20, 2017, parties appeared for a scheduling conference. Text. Min. Entry dated Sept. 20, 2017. At the conference, the Court discussed plaintiff's filing of a late response in opposition to the Motion for Stay, and adjourned the conference for September 28, 2017 to allow defendants' attorneys and the Court an opportunity to review plaintiff's letter motion. Id. On September 25, 2017, defendant Apple filed a Reply to plaintiff's

opposition to his Motion to Stay. Dkt. No. 84.

On September 28, 2017, parties appeared before the undersigned for an in-person, on the record conference. At that conference, counsel for defendant Apple indicated that a stay was necessary, as he was appealing to the Second Circuit Judge Suddaby's Decision and Order insofar as it declined to grant him qualified immunity. Plaintiff's counsel argued that she would face prejudice should the Court grant defendant Apple a stay. At the conference, the undersigned deferred on a decision.

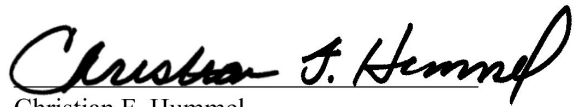
The undersigned finds that defendant Apple is entitled to a stay of discovery and dispositive motion deadlines during the pendency of his interlocutory appeal to the Second Circuit as the apparent question before that Court appears to involve a mixed question of law and fact relating to qualified immunity. Parties are advised, if it is necessary following a decision on that Appeal from the Second Circuit, the undersigned intends to follow an expedited discovery and dispositive motion schedule.

WHEREFORE, it is hereby

ORDERED, that defendant Apple's Motion for a Stay of discovery and dispositive motion deadlines as it relates to defendant Apple is GRANTED (Dkt. No. 75, 84), and plaintiff's letter motion requesting the Court deny such stay is DENIED (Dkt. No. 81).

IT IS SO ORDERED.

Dated: September 29, 2017
Albany, New York


Christian F. Hummel
U.S. Magistrate Judge